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SENATE BILL 639

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO WAGES; PROVIDING FOR AUTOMATIC DIRECT DEPOSIT OF
STATE EMPLOYEE SALARIES AND WAGES INTO EMPLOYEE ACCOUNTS AT
FINANCIAL INSTITUTIONS; REQUIRING THE DEPARTMENT OF FINANCE AND
ADMINISTRATION TO PROMULGATE RULES REGARDING AUTOMATIC DIRECT
DEPOSIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7-2 NMSA 1978 (being Laws 1933,
Chapter 157, Section 1, as amended) is amended to read:

"10-7-2. SALARIES AND WAGES [~~PAYABLE AT LEAST
SEMI-MONTHLY~~] -- RULES -- DIRECT DEPOSIT. -- [~~It is hereby provided
that all~~]

A. Persons employed by and on behalf of the state
[~~of New Mexico~~], except those employed by institutions of
higher education, including all officers, shall receive their

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1 salaries or wages for services rendered in accordance with
2 [~~regulations~~] rules issued by the department of finance and
3 administration.

4 B. The department of finance and administration may
5 require the automatic direct deposit of a state employee's
6 salary or wages into the employee's account, or into an account
7 established by the department on behalf of the employee, in a
8 financial institution authorized by the United States or one of
9 the several states to receive deposits in the United States.
10 The department of finance and administration shall adopt rules
11 governing the automatic direct deposit of salary or wages.
12 Those rules shall provide the circumstances under which a state
13 employee may, with the approval of the department of finance
14 and administration, withdraw from or elect not to participate
15 in automatic direct deposit."

16 Section 2. Section 50-4-2 NMSA 1978 (being Laws 1937,
17 Chapter 109, Section 2, as amended) is amended to read:

18 "50-4-2. SEMIMONTHLY AND MONTHLY PAY DAYS. --

19 A. [Every] An employer in this state shall
20 designate regular pay days, not more than sixteen days apart,
21 as days fixed for the payment of wages to all employees paid in
22 this state. The employer shall pay for services rendered from
23 the first to the fifteenth days, inclusive, of any calendar
24 month by the twenty-fifth day of the month during which
25 services are rendered, and for all services rendered from the

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1 sixteenth to the last day of the month, inclusive, of any
2 calendar month by the tenth day of the succeeding month. Where
3 computation of earnings and of amounts due, preparation of
4 payrolls and issuance of paychecks are at a central location
5 outside New Mexico, the employer shall pay for services
6 rendered from the first to the fifteenth days, inclusive, of
7 any calendar month by the last of the month during which
8 services are rendered, and for all services rendered from the
9 sixteenth to the last day of the month, inclusive, of any
10 calendar month by the fifteenth day of the succeeding month.

11 B. ~~[Employers]~~ Except as provided by rules of the
12 department of finance and administration for payment of
13 salaries and wages to state employees, other than employees of
14 institutions of higher education, promulgated pursuant to
15 Section 10-7-2 NMSA 1978, an employer shall pay [such] wages in
16 full, less lawful deductions and less payroll deductions
17 authorized by the employer and employee. Wages shall be paid
18 in lawful money of the United States or in checks, payroll
19 vouchers or drafts on banks, convertible into cash on demand at
20 full face value or, with the voluntary authorization of the
21 employer, employee and financial institution, by deposit to the
22 account of the employee in any bank, savings and loan
23 association, credit union or other financial institution
24 authorized by the United States or one of the several states to
25 receive deposits in the United States, without any reduction or

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1 deduction, except ~~[such]~~ as may be specifically stated in ~~[the]~~
2 a written contract of hiring entered into at the time of
3 hiring. ~~[Every]~~ An employer shall provide ~~[his]~~ an employee
4 with a written receipt that identifies the employer and sets
5 forth the employee's gross pay, the number of hours worked by
6 the employee, the total wages and benefits earned by the
7 employee and an itemized listing of all deductions withheld
8 from the employee's gross pay. Nothing contained in Sections
9 50-4-1 through 50-4-12 NMSA 1978 shall in any way limit or
10 prohibit the payment of wages or compensation at more frequent
11 intervals than those set forth in this section. Where the
12 labor or service to be rendered to an employer is recompensed
13 on a task, piece or commission basis or other method of
14 calculating the amount of wages to be paid, other than a
15 definite and fixed amount in cash, the employer and the
16 employee may agree in writing at the time of hiring that the
17 wages shall be paid on a monthly basis, ~~[but in all such cases,~~
18 ~~payment shall be made]~~ on or before the tenth day of the
19 succeeding calendar month.

20 C. Notwithstanding the provisions of Subsection A
21 of this section, ~~[every]~~ an employer may pay professional,
22 administrative or executive employees or employees employed in
23 the capacity of outside salesman, as those terms are defined
24 under the federal Fair Labor Standards Act, one time per month,
25 excluding those employees whose ~~[salaries]~~ wages are subject to

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provisions of collective bargaining agreements. "